



COUNTY OF YELLOWSTONE ZONING COMMISSION

AGENDA-Monday, January 11, 2021 4:00 PM
Miller Building, 1st Floor Conference Room
2825 3rd Avenue North, Billings, Montana

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less. Due to the COVID-19 health concerns, the format of the County Zoning Commission meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1st Floor at 2825 3rd Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to Board via email before 1:00 PM on Monday, January 11, 2021. All emails received prior to this time will be read into the record for the public hearing. The Public may call in during specific Public Comment periods at (406)237-6165. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed on the Billings-Planning & Community Services Facebook Page here; <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

Call the meeting to order.

Introduction of the Yellowstone County Zoning Commission Members and Planning Department Staff.

Public Comment

Motion. Approval of Minutes: September 24, 2020 (PROJECT RECODE); October 12, 2020 (PROJECT RECODE)

Disclosure of any Conflict of Interest-Members of the Commission and Staff

Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff
a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.

Regular Business:

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

Public Hearings:

- a. **Motion. Recommendation to BOCC. County Special Review 332** – North End of Johnson Lane – Expansion of Kembel Post Gravel Mine – A special review request to allow expansion of an existing gravel extraction operation in a Heavy Industrial (HI) zone on Tracts 1, C/S 2796, a 43.3 acre parcel of land. Tax ID: D06421. Presented by Monica Plecker, Planning Division Manager

Other Business/Announcements

- a. IPAD Tablets and Electronic Agendas-Planning Staff

Adjournment

The **Board of County Commissioners** public hearing for **Special Review 332** will be held **on Tuesday, January 26, 2021, at 9:30 a.m. at 316 N 26th Street – 3rd Floor, Commissioner’s Hearing Room**. The Board of County Commissioners will hear all persons wishing to speak relative to the proposed **special review**. Information on the preceding item may be obtained at the Yellowstone County Planning Department, 2825 3rd Avenue North, 4th Floor or phone 657-8246. Anyone wishing to be heard on this matter may appear at this hearing. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Tammy Deines, Planning Clerk, at 247-8610 or e-mail at deinest@ci.billings.mt.us

County Zoning Commission

Meeting Date: 01/11/2021

Information

Subject

Motion. Approval of Minutes: September 24, 2020 (PROJECT RECODE); October 12, 2020 (PROJECT RECODE)

Attachments

YZC_2020_09_24_Project ReCode_DRAFT

YZC_2020_10_12_Project ReCode_DRAFT



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, September 24, 2020
Project ReCode**

The County Zoning Commission met on Monday, August 27, 2020 at 4:30 p.m. Due to the COVID-19 health concerns, the format of the County Zoning Commission meeting will be held in a virtual videoconferencing environment.

The Zoning Commission will hear all persons wishing to speak relative to the proposed Text Amendments. Testimony regarding the above-mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 or via email to cromwelln@billingsmt.gov or Plnonline@billingsmt.gov

The Zoning Commission is conducting multiple topic-focused hearings on the draft zoning codes. The Zoning Commission will meet after all hearings are completed to make formal recommendations to the Board of County Commissioners. Additional public hearing notices will be published for future dates, times & locations.

The public hearing will be broadcast on the Planning Community Services Department Facebook page <https://www.facebook.com/Billings-Planning-Community-Services-Department> and a call-in phone number will be published and broadcast so members of the public can call in during the public hearing at 406-247-6120. Community 7 Television will also broadcast the public hearing live on their Facebook page: <https://www.facebook.com/comm7tv>.

The hearings will be recorded and available for viewing at any time on both Facebook pages above. Additional information and copies of the draft amendments are available in the Planning and Community Services Office, the County Clerk and Recorder, the County Commissioners' Office, the City Clerk's Office, and online at <https://project-recode.com/code-outline> (Draft Sections 27-300, 27-400, 27-500, 27-600, 27-800, 27-900 and 27-1000).

Commissioners and Staff		01/13/20	02/10/20	03/09/20	04/13/20	05/11/20	06/08/20	07/13/20	08/10/20	08/26/20	08/27/20	09/14/20	09/24/20	10/12/20
Jerry T. Ray	Commissioner	1	-	-	-	1	-	-	1	1	1	1	1	
Troy Boucher	Commissioner Chairman	1	-	-	-	1	-	-	1	1	1	1	1	
Ryan Wittman	Commissioner	1	-	-	-	E	-	-	A	E	E	R	R	
Tyler Bush	Commissioner Chairman	E	-	-	-	1	-	--	1	1	1	1	1	
Todd Hewett	Commissioner	1	-	-	-	1	-		A	A	A	A	A	



Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, September 24, 2020
Project ReCode

Chairman Boucher opened the meeting and introduced the County Zoning Commission members and Planning Division staff: Nicole Cromwell, Zoning Coordinator, Monica Plecker, Planning Division Manager, Tammy Deines, Planning Clerk, Jeannette Vieg, Planning Assistant

Other Participants Leslie Oberholtzer, Consultant, SAFEbuilt; Community 7 TV. There are no other public attendees this afternoon.

Public Comment

Chairman Boucher asked if there was anyone wishing to speak during the public comment portion of the meeting. The Public may call in during specific Public Comment periods at (406) 237-6120. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. There was no public comment.

Item 1: Text Amendment – Project ReCode – Proposed Draft Sections 27-200: Zoning Map Update; 27-1600: Administrative Procedures

The Zoning Commission is conducting multiple topic-focused hearings on the draft zoning codes. This final sixth session of the City Zoning Commission will review the Zoning Map Update and the Administrative Procedures for the new Zoning Code.

Recommendation

Staff recommends the Zoning Commission review the draft map and administrative procedures and hold a public hearing. No action on the document is required at this time.

Zoning Coordinator Nicole Cromwell opened the staff presentation with the Steering Committee Guiding Principles and Mission Statement. She reviewed the existing zoning districts and the new zoning districts, which whenever possible and practicable, are equivalent to the existing zones. Some zoning districts were consolidated to better fit with areas.

- Most newer R-96 zones = N3 zone on map
- District updated to reflect actual use and development – reduce nonconformities
- Duplexes in existing R-96 updated to N1 or N2
- Four unit buildings updated to NX1
- CC zone – three new zones = CMU1, CMU2 and CX
- HC zone – updated to CX
- Entryway zone – updated to CX, I1, CMU1 or2, NMU

Zoning Map Updates- The new map is more precise and has less variation of color. The City limits line is depicted in dark green, and new colors are used for the Public zones.

Administrative Procedures- New code section – includes all types of processes.

Process Flow Charts are provided throughout the document.



**Yellowstone County Zoning Commission
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Project ReCode**

- Permit reviews (zoning compliance for buildings, fences, signs, temporary uses etc.)
- Zoning Variances
- Special Reviews
- Zoning Changes
- Planned Neighborhood Developments
- Appeals

Administrative Procedures: New rules for Special Review-Special Review is a special exception to the zone district. No longer an “allowed” use

- Specific criteria to ensure proposed use in compatible with the site:
 - Pre-application meetings will be required for the neighborhood
 - Consistent with Growth Policy
 - Do not endanger public health, safety, or general welfare
 - Complies with Site Development – landscaping, parking, signage, building requirements
 - Signs, hours of operation, noise, vibrations, timeframe for development, buffering adjacent
- Expires if not acted on within 1 year of approval
- Expires for non-use after 6 months

Public Adoption Process:

Sept 23rd – City Zoning Commission – Map and Administrative Procedures

Sept 24th – County Zoning Commission – Map and Administrative Procedures

October 12th – County Zoning Commission – final discussion and recommendation to BOCC

October 14th – City Zoning Commission – final discussion and recommendation to City Council

Discussion

Nicole Cromwell offered to answer questions from the Commissioners. Commissioner Boucher asked for clarification on the Administrative Relief. Nicole Cromwell explained this is new to the code, and it has to do with site development characteristics in some of the districts. The applicant is able to ask the Planning Director or administrator for a 2% adjustment from the requirement for the district. Currently it is under the landscaping code. There is some administrative relief through the approval process. Commissioner Boucher asked if this would relate to a pool cover variance. Nicole Cromwell stated this would be one scenario of administrative relief, especially if it is a temporary situation. There were no further questions from the Zoning Commission. Staff will distribute the entire draft code to the Commissioners for their review.



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, September 24, 2020
Project ReCode**

Public Hearing: Chairman Boucher opened the public hearing and announced the Public Comment phone number 237-6165. There were no calls from the public. Chairman Boucher closed the public hearing. No action will be taken at this time. The County Zoning Commission will convene on October 12, 2020 and forward a recommendation and findings to the Board of County Commissioners.

OTHER BUSINESS

a. **Announcement:** The next Yellowstone County Zoning Commission meeting will be held on Monday, October 12, 2020 in a virtual video conference format.

Adjournment 5:07 PM

DRAFT-To be approved by a motion at the next scheduled meeting

--Tamara L. Deines, Planning Clerk



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, October 12, 2020
Project ReCode**

The County Zoning Commission met on Monday, August 27, 2020 at 4:30 p.m. Due to the COVID-19 health concerns, the format of the County Zoning Commission meeting will be held in a virtual videoconferencing environment.

The Zoning Commission will hear all persons wishing to speak relative to the proposed Text Amendments. Testimony regarding the above-mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or via email to cromwelln@billingsmt.gov or Plnonline@billingsmt.gov

The Zoning Commission is conducting multiple topic-focused hearings on the draft zoning codes. The Zoning Commission will meet after all hearings are completed to make formal recommendations to the Board of County Commissioners. Additional public hearing notices will be published for future dates, times & locations.

The public hearing will be broadcast on the Planning Community Services Department Facebook page <https://www.facebook.com/Billings-Planning-Community-Services-Department> and a call-in phone number will be published and broadcast so members of the public can call in during the public hearing. Community 7 Television will also broadcast the public hearing live on their Facebook page: <https://www.facebook.com/comm7tv> .

The hearings will be recorded and available for viewing at any time on both Facebook pages above. Additional information and copies of the draft amendments are available in the Planning and Community Services Office, the County Clerk and Recorder, the County Commissioners' Office, the City Clerk's Office, and online at <https://project-recode.com/code-outline> (Draft Sections 27-300, 27-400, 27-500, 27-600, 27-800, 27-900 and 27-1000).

Commissioners and Staff		01/13/20	02/10/20	03/09/20	04/13/20	05/11/20	06/08/20	07/13/20	08/10/20	08/26/20	08/27/20	09/14/20	10/12/20
Jerry T. Ray	Commissioner	1	-	-	-	1	-	-	1	1	1	1	1
Troy Boucher	Commissioner Chairman	1	-	-	-	1	-	-	1	1	1	1	1
Ryan Wittman	Commissioner	1	-	-	-	E	-	-	A	E	E	R	R
Tyler Bush	Commissioner Chairman	E	-	-	-	1	-	--	1	1	1	1	1
Todd Hewett	Commissioner	1	-	-	-	1	-		A	A	A	A	A



**Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, October 12, 2020
Project ReCode**

Chairman Boucher opened the meeting and introduced the County Zoning Commission members and Planning Division staff: Nicole Cromwell, Zoning Coordinator, Tammy Deines, Planning Clerk.

Other Participants Leslie Oberholtzer, Consultant, SAFEbuilt; Planning Board President Woody Woods, Jeff Bollman, DNRC; Citizen Paul Bitts

Public Comment

Chairman Boucher asked if there was anyone wishing to speak during the public comment portion of the meeting. The Public may call in during specific Public Comment periods at (406) 237-6165. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary.

Motion. Approval of Minutes: August 26, Project ReCode; August 27, 2020 Project ReCode, September 14, 2020 YC Zoning Commission Regular Meeting

Motion

Motion was made by Commissioner Bush and seconded by Commissioner Ray to approve the August 26, Project ReCode; August 27, 2020 Project ReCode, September 14, 2020 YC Zoning Commission Regular Meeting minutes as submitted.

The motion carried with a unanimous voice vote.

Item #1: Project ReCode – Zoning Code Amendments and Zoning Map Update
Zoning Coordinator Nicole Cromwell read the legal notice for the record.

REQUEST

Review and recommendation to the Board of County Commissioners.

<https://project-recode.com/code-outline> (Amendments) and <https://project-recode.com/zoning-map-comparison> (Zoning Map Update). This hearing will summarize the previous five public hearing sessions on the Zoning Code Amendments and Map Update, review the findings of the Zone Change criteria, and make a recommendation to the County Commissioners. The **Board of County Commissioners** public hearing for **Project ReCode** will be held **on Tuesday, November 10, 2020, at 9:30 a.m.** The Board of County Commissioners will hear all persons wishing to speak relative to the proposed **Zoning Code Amendments and Zoning Map Update**. The Board of County Commissioners may also have specific public hearing procedures in place for this hearing date and time. This final public hearing is to review the amendments and map update and to make a formal recommendation on these changes to the Board of County Commissioners for their consideration.



Yellowstone County Zoning Commission
DRAFT Minutes for the Meeting of
Monday, October 12, 2020
Project ReCode

RECOMMENDATION

Staff recommends the County Zoning Commission forward a recommendation of approval to the County Commissioners along with the findings of the 11 review criteria for the Zoning Code Amendments and Zoning Map Update.

Zoning Coordinator Nicole Cromwell gave an overview of the Yellowstone County Draft Zoning Code. She opened with the Steering Committee Guiding Principles and an explanation of the Zoning Code outline in comparison to the existing zoning code outline. She defined the RR-Rural Residential zones, N4-Suburban Residential Neighborhood; RR1-Rural Neighborhood; RR3-Rural Neighborhood; R-RMH-Rural Manufactured Home and gave the criterion for detached accessory structures. She pointed out the County Board of Adjustment has granted several dozen variances to exceed the 1,000 sf or 1,500 sf maximum footprint. The County Board of Adjustment has not granted many variances in excess of 2,000 sf in the current code.

Discussion

Commissioner Boucher proposed not including the limitation of the footprint of the house in the N4 District and 3,000 square feet in the RR1 and RR3 zones. He commented that it is his experience in the last few years that there has been a great deal of interest in larger lots in order to have a larger garage. Commissioner Bush stated he concurs with Commissioner Boucher as several Board of Adjustment meetings have been held with applications specific to this issue. He said accommodation in this way would be good. He is in favor of allowing the 2,000 sq. ft. maximum per structure and eliminating the verbiage of the residence as a controlling factor. Commissioner Ray is in agreement with this suggestion. Nicole Cromwell pointed out that 3,000 sq. ft. is allowable in the R1 & RR3 zones and there are no limits within the agricultural zone. Commissioner Boucher said he believes restricting garages to the principle dwelling square footage in the N4 Zoning District is too restrictive. He would be in favor of no size restriction for detached structures up to 2,400 to 3,000 square feet on larger lots between .5 acres to 1 acre. He said often times residents do not realize they are in County zoning. A 40 X 60 ft. building is a common size. Commissioner Ray stated he has a 40 X 60 ft. shop on his property and there should be no limitations, as he does not want hamstringing residents who wish to have larger buildings. He is opposed to limitations as residents move to the County to have these types of structures. Nicole Cromwell pointed out that the larger buildings are often outside of the zoning.

Nicole Cromwell continued with the presentation to the Commission. She said the proposed County Zone Districts, C3-General Commercial; CX-Heavy Commercial; L1-Light Industrial; L2-Heavy Industrial; and P1, P2, P3-Public were reviewed on September 27, 2020. She noted that the Planned Neighborhood Developments are a new zoning tool. Urban level zone districts will not be allowed outside the city limits except in **Lockwood**. There are four types – Mixed Use, Mixed Residential, and Neighborhood & Town Center.



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The County landscaping code, (Section 27-1000), was updated to provide maximum flexibility to the developer for landscaping of the property.

Proportionate Compliance-the proposed code can allow adjustments over time and allows a “look back” period over five years.

The Off-Street Parking code has new parking ratios that had better reflect uses. The County code will not have a maximum parking requirement. Code Updates:

- New Parking Ratios to better reflect current uses and transportation options in the city and county
- City code will allow off-sets for transit and will require most Mixed Use Commercial zones to provide at least one bike parking rack
- City and County code allow off-sets for some on-street parking for neighborhood adjacent uses
- City code will set maximum off-street parking ratio – allow administrative appeal to increase above maximum ratio
- In the City, continue the no off-street parking provisions in EBURD and CBD
- EV charging stations allowed

Sign Code Section 27-1400-City and County

New billboards will be allowed in the County. Nicole Cromwell clarified exempt and temporary signs, and addressed nonconforming signs. Updates to Code Section 27-1400 include:

- Updates to Purpose of Sign Code
- Retain Billboard Moratorium in city limits
- Ensure content neutral regulations throughout
- Add window signs as a regulated sign
- Clarify exempt and temporary signs
- Private signs in public right of ways
- Nonconforming signs

Discussion

Commissioner Ray asked if the distance between billboards is the same. Nicole Cromwell explained that the required separation distance of 500-feet between billboards in the County is the same as before. The spacing law between billboard signs is a requirement of the Federal Highway dollars for Montana. Staff is trying to ensure this code is not contradictory to other existing codes. Commissioner Ray asked for clarification of the zoning districts in Lockwood. Planning Board President Woody Woods referred to the TEDD District located on Johnson Lane. **Nonconformities** -Some conformity’s can be cured through the approval of zoning variances for setbacks, height, and lot coverage. There are no use variances.



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Zoning map update-Whenever possible and practical, the existing zone districts and the logic behind the new zoning classifications.

Most R-96 zones (or other dense R zones) = N4 zone – except in Lockwood – N3, N2, NX1 or NX2 zones

Most R-150 zones = RR1 or N4 depending on lot area

Most A-S zones = RR1 or RR3

Most A-1 zones = A zone - OR – if less than 10 acres RR1/RR3

CC zone = C3 or CX – depends on use

HC zone = CX or I1

Entryway zones = C3, CX, I1 – in Lockwood CMU1 & CMU2, or NMU

HI zones = I2

Administrative Procedures-New code section – includes all types of processes

- Permit reviews (zoning compliance for buildings, fences, signs, temporary uses etc.)
- Zoning Variances
- Special Reviews
- Zoning Changes
- Planned Neighborhood Developments
- Appeals

Special Topics in Rural Residential Neighborhoods

- Accessory Dwelling Units in the County require a special review in N4, RR1, and RR3. AARP supports ADUs as a way for residents to “age in place” or allow caretakers to live on the property.
- Short Term Rentals, i.e. VRBO, Air-BnB, must be registered. Guest homes are allowed in commercial districts but special review is required for tourist homes. The code cannot override private covenants and restrictions.

Public Hearing: Chairman Boucher opened the public hearing and announced the Public Comment phone number 237-6165 and asked if there is anyone wishing to speak in regard to this text amendment. Planning Clerk Deines announced a phone call from Citizen Jeff Bollman.

Jeff Bollman, 619 Lewis, Billings, Montana

Jeff Bollman works for the Department of Natural Resources and Conservation and has served on the County Issues Working Group. He asked if changes have been made or more discussion held on his questions posed during the prior Re:Code meeting. He said he sent an e-mail to Division Monica Plecker with comments on the substation section. Nicole Cromwell apologized and said this was an oversight on her part. She read aloud Jeff Bollman’s e-mail asking about the special review in Light Industrial zoning and permitted reviews in Heavy Industrial zones; and if this is the intent of the code adjustment for alternative energy production. Mr. Bollman suggested breaking it down further than the listing on Page 15, Use table, 27-1000.



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Jeff Bollman said the issue is utilities and public major facilities, which speaks to water and wastewater treatment and energy facilities. This does not have to do with alternative energy but instead the manner of electric generation. Nicole Cromwell referred to Table 27-1000, Transportation Utilities and Communities. She noted there are allowed uses that should not have been changed. Jeff Bollman said the definitions section lumps the uses together. He read aloud the definition of the Utilities section and compared it to the table. He said the difference is the generation of power. This code update would make the power generation plants an allowed use in Heavy Industrial zoning. Commissioner Boucher said he did not recall that conversation in the County Issues Working Group. Nicole Cromwell said it could be updated to make it a special review in Heavy Industrial, Light Industrial, and P2 zones as well. Commissioners Bush and Boucher concurred with this suggestion for updates.

It was pointed out that substations are an allowed use in AG-Open zones. Jeff Bollman said he does not want to create nonconforming uses in Ag-Open zones, and suggested changing this from special review to permitted. Commissioner Boucher said this is an appropriate change. He asked how the special review process has changed. Nicole Cromwell said they are changing the way these are approached by applicants who will have to meet additional criterion for the special exemption as an allowed use. There are fewer special review uses in this Code. Commissioner Boucher said Mr. Bollman's suggestion is appropriate.

Discussion followed on Article 27-1000. Oil and gas refineries are permitted in the HI zone and the current code requires a special review. Question was asked if the special review use for oil and gas refineries should be retained. Commissioner Boucher stated the new "PR" designation is similar to the old special review approach. "PR" means it is restricted based on its location and in proximity to another use. There are standard restrictions and conditions that apply. Currently, Petroleum is special review in Heavy Industrial only currently. Commissioner Boucher stated it seems reasonable to have at least a "PR" in this section. Use restrictions for oil and gas refineries were not discussed. Nicole Cromwell suggested keeping it as a special review. Commissioners Boucher and Bush are in concurrence.

Jeff Bollman noted the section on Utilities, minor facilities includes wind and solar. He asked if these conflict with the special provisions that were done for specific facilities in Tier 2 or Tier 3. It may be removed from the definition to alleviate conflicts. Commissioner Boucher is in agreement with removing this language in Tier 2 or Tier 3.

Page 38: SEF Permit Requirements, (County). Tiers 1-3 solar energy facilities are combined in 1-1 and 1-2. The table should be split, as the table does not match the language. The table is a duplicate of the use table. Remove 1, 2, and 3, in the table. The same issue exists on Page 55, Wind. The numbers in the table should be removed and "A", and "B" kept. The Commissioners are in agreement with these changes.



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Jeff Bollman stated he had no further suggestions and thanked the Commissioners for their efforts.

Commissioner Boucher asked for a review of the changes on Administrative Procedures and it was given by Zoning Coordinator Cromwell.

Planning Board President Woods stated he has no further comments as this has been a thorough discussion. He stated he is in agreement with Jeff Bellman's suggestions and the direction taken.

Public Comment: Chairman Boucher announced the Public Comment phone number 237-6165 and asked if there is anyone wishing to speak concerning this text amendment. Planning Clerk Deines announced a phone call from Citizen Paul Bitts.

Paul Bitts, (no address given)

Mr. Bitts asked if there is any limitation on adult offender homes. Nicole Cromwell responded that group homes and sober living homes are an allowed use under Community Residential Facilities. Offenses are not addressed as a matter of zoning. The Zoning Code designation for community residential facilities are defined under state law and federally protected. There is no designation for group homes as to why they are living together.

Chairman Boucher announced the Public Comment phone number 237-6165 and asked if there is anyone wishing to speak about this text amendment. There were no further public comments. Chairman Boucher closed the public hearing at 5:35 pm and called for a motion.

Motion

Commissioner Bush moved and Commissioner Boucher seconded the motion that the County Zoning Commission forward a recommendation of approval to the County Commissioners along with the findings of the 11 review criteria for the Zoning Code Amendments and Zoning Map Update and including the modifications discussed during this meeting.

Chairman Boucher called for discussion on the motion.

Discussion

Commissioner Ray stated he is abstaining from this vote due to the inability of changing this code. He said he needs to know if this group can change the code. Nicole Cromwell pointed out that several adjustments have been discussed and Commission members were asked to submit comments and concerns. The Board of County Commissioners will take the Zoning Commission's recommendation, hold a public hearing, and decide how the adoption will proceed. The BOCC hearing will be held Tuesday, November 10, 2020.



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The motion carries, 2-1, with Commissioner Ray abstaining. The abstention counts as a vote in opposition for the purposes of this recommendation.

OTHER BUSINESS

a. **Announcement:** The next Yellowstone County Zoning Commission meeting on Monday, November 9, 2020 is canceled due to a lack of agenda items.

Adjournment 5:45 PM

DRAFT-To be approved by a motion at the next scheduled meeting

--Tamara L. Deines, Planning Clerk



County Zoning Commission

Meeting Date: 01/11/2021

SUBJECT: Special Review 332

THROUGH: Monica Plecker

PRESENTED BY: Monica Plecker

Information

REQUEST

Motion. Recommendation to BOCC. County Special Review 332 – North End of Johnson Lane – Expansion of Kembel Post Gravel Mine – A special review request to allow expansion of an existing gravel extraction operation in a Heavy Industrial (HI) zone on Tracts 1, C/S 2796, a 43.3 acre parcel of land. Tax ID: D06421. Presented by Monica Plecker, Planning Division Manager

RECOMMENDATION

Staff recommends conditional approval of Special Review 332.

APPLICATION DATA

OWNER: JDW Industrial Park 2 LLC
AGENT: Jennifer Kondracki@weavemangement.com
LEGAL DESCRIPTION: C/S 2769 Tract 1, Section 18, T1N, R27E
ADDRESS: Johnson Lane
CURRENT ZONING: I2 Heavy Industrial
EXISTING LAND USE: Gravel Pit and Livestock Grazing
PROPOSED USE: Gravel Pit Expansion
SIZE OF PARCEL: 43.3 Acres

CONCURRENT APPLICATIONS

Not Applicable.

APPLICABLE ZONING HISTORY

SURROUNDING PROPERTY	Special Review	DATE	FOR	APPROVED (Y/N)	ADDITIONAL DATA
Johnson Lane/Coulson Road	SR 282	2002	Gravel Pit	Y	
3530 Coulson Road	SR 325	2012	Gravel Pit	Y	

SURROUNDING LAND USE & ZONING

NORTH: Zoning: Heavy Industrial
Land Use: Gravel Pit, Agricultural
SOUTH: Zoning: Heavy Industrial
Land Use: Warehousing
EAST: Zoning: Heavy Industrial
Land Use: Vacant
WEST: Zoning: Ag Open
Land Use: Agricultural

BACKGROUND

The applicant is requesting a special review to allow the expansion of an existing gravel mine located along Johnson Lane. The applicant is JDW Industrial Park 2 LLC. This Special Review application is for consideration of a gravel pit on a 43.3 acre parcel immediately adjacent to an existing and approved (SR282) gravel pit on an 85.6 acre parcel of land. The existing mine and proposed expansion area are both zoned Heavy Industrial (I2). The proposed site is legally and physically accessed from Johnson Lane, a gravel road. The applicant states the expansion and additional mining will primarily be used to excavate material to be used in support of the construction of the new Yellowstone River highway bridge and right-of-way on adjacent property to the east of the project. The need for the project directly supports a major highway and bridge project. The applicant further states the project is adjacent to the highway right-of-way and bridge construction site so access/travel/material haul will be contained within the project boundary and will not require use of public roads.

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Zoning Regulations and adopted Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that it is within a zoning district where a gravel pit can be allowed by special review approval. The application was submitted before the new zoning code was adopted by the Board of County Commissioners. The application is proceeding under the previous code provision. The Heavy Industrial zone district requires a special review approval for all sand and gravel mining. The application also conforms to the second criteria. The zoning regulations in place at the time of this application designated all zoning districts as locations where gravel pits may be allowed by special review approval.

The 2008 Growth Policy encourages new development that provide essential service to neighborhoods. The gravel pit expansion would provide essential materials for a highway and bridge project that benefits the County's transportation network. The application also meets the third criteria in that it can be made somewhat compatible with surrounding land uses in the area through conditions that mitigate the impacts to the surrounding uses. This site is in an area of Yellowstone County that is industrial and is adjacent to an already existing gravel pit. There are impacts from the proposed use that need to be mitigated. The conditions recommended with the special review should mitigate impacts from the site on the surrounding properties.

RECOMMENDATION

Staff is recommending conditional approval. The conditions recommended are similar to those that have been placed on previous gravel extraction operations and attempt to make this use as compatible as possible with the surrounding area and similar adjacent uses.

Conditions of Approval:

1. Dust suppression shall be employed on all exposed rock, gravel, sand or topsoil.
2. Adequate back sloping of all cut-slopes shall be applied to prevent slope collapse.
3. This special review is only for the legally described property and only for gravel and sand extraction. No on-site generation of asphalt is allowed by this approval.
4. Internal haul roads shall be graveled and sprinkled or paved.
5. The site shall be reclaimed according to the plan submitted to the Montana Department of Environmental Quality (MT DEQ).
6. A weed control plan shall be submitted and approved by Yellowstone County Weed Control Department.
7. Any mining activity within 500 feet of a residence on adjacent property shall be limited to the hours of 7:00 am and 8:00 pm.
8. The operator of the mining operation shall appoint an individual to act as a contact person and complaints about failure to comply with these conditions shall be directed to that person in writing as a first step in resolving the problem. Failure to respond to a complaint or to reasonably comply with the complaint will allow the matter to be brought to the attention of the Planning Department. Failure to reasonably address the complaint will bring the matter before the Zoning Commission for recommendation to the Board of County Commissioners on resolving the problem. The name, address and phone number of the contact person shall be provided to the Planning Department and the County Public Works Department.
9. The mined portion of the property shall be restricted to the area described on the MT DEQ application.
10. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
11. Failure to comply with these conditions of approval of the special review use shall be deemed a violation of the zoning regulations.

ZONING COMMISSION ACTION

The County Zoning Commission shall make a recommendation to the Board of County Commissioners to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before approving a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Resolution;
2. Is consistent with the objectives and purposes of the County Zoning Regulations and the Growth Policy;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
 2. Ingress and egress to adjoining streets;
 3. Off-street parking;
 4. Fencing, screening and landscaping;
 5. Building bulk and location;
 6. Usable open space;
 7. Signs and lighting;
 8. Noise, vibration, air pollution and similar environmental influences.
-

Attachments

Application, Applicant Letter and Site Plan
Zoning Map and Site Photos

County

APPLICATION FORM

CITY SPECIAL REVIEW

Billings Special Review#

- Project # PZ-20-00255

The undersigned as owner(s) of the following described property hereby request a Special Review as outlined in the City of Billings Zoning Regulations.

Present Zoning: Heavy Industrial

Special Review Requested: Open cut Mining/Reclamation by JDW Industrial Park 2

TAX ID# E16728 D06421 CITY ELECTION WARD # N/A outside City limits

Legal Description of Property: Phase 6 on C/S 2796 Tract 1, Section 18, T1N, R27E

Address or General Location (If unknown, contact City Engineering): East End of Johnson Lane

Size of Parcel (Area & Dimensions): 43.3 acres, 2500 ft x 1560 feet

Present Land-Use: Cattle Grazing

Covenants or Deed Restrictions on Property: Yes _____ No x

If yes, please attach to application

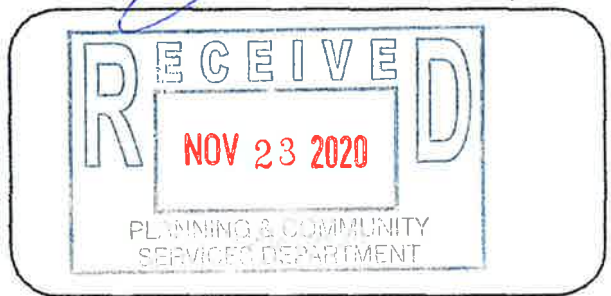
*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): JDW Industrial Park 2
(Recorded Owner)
2348 N. Frontage Rd., Billings, MT 59101
(Address)
406-245-8833 jkondracki@weave.com
(Phone Number) (email) management.com

Agent(s): Jennifer Kondracki
(Name)
2348 N. Frontage Rd Billings MT 59101
(Address)
406-245-8833 jkondracki@weave.com
(Phone Number) (Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Special Review. Also, I attest that all the information presented herein is factual and correct.

Signature: [Signature] Date: 11/18/2020
(Recorded Owner)



UNANIMOUS WRITTEN CONSENT OF THE MEMBERS
OF JDW INDUSTRIAL PARK 2, LLC

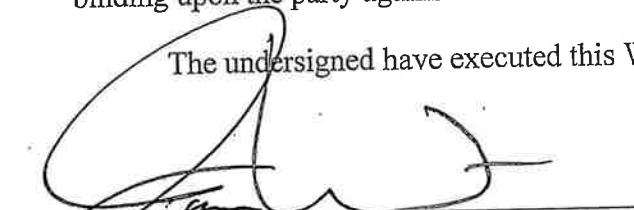
The undersigned, being all of the members of JDW INDUSTRIAL PARK 2, LLC, a Montana limited liability company (the "*Company*"), hereby adopt, approve and consent to the following Company actions effective as of April 16, 2019:

The Company authorizes and appoints Jennifer Kondracki, as the authorized agent of the Company (the "*Authorized Agent*") at any time and from time to time to execute and deliver to banks, credit unions and other financial institutions, vendors, customers, attorneys, accountants, governmental agencies and any other person any agreements, deeds, bills of sale, assignments, checks, negotiable instruments, promissory notes and other evidence of the Company's obligations to any person, security agreements, mortgages, trust indentures, deeds of trust, pledge agreements, collateral assignments, guarantees, and other documents and instruments required by any person from time to time ("*Documents*"), all in a form as the Authorized Agent may determine and approve (which determination and approval shall be established conclusively by the Authorized Agent's execution and delivery of any Documents).

The Authorized Agent is authorized at any time and from time to time to grant, mortgage, create security interests in and pledge to any person the collateral described in any Documents granting a lien or security interest in any property of the Company for any consideration as the Authorized Agent may determine to be appropriate for the payment or performance of any or all debts, liabilities and obligations of every type and description now or at any time owed to any person by the Company, on any terms as the Authorized Agent may approve, and to do any other acts or things in connection therewith or pursuant thereto as the Authorized Agent may determine to be appropriate, all in a form as the Authorized Agent may determine and approve (which determination and approval shall be established conclusively by the Authorized Agent's execution and delivery of any Documents).


A facsimile or electronic signature to this Unanimous Written Consent of the Members of JDW INDUSTRIAL PARK 2, LLC (this "*Written Consent*") shall be deemed an original and binding upon the party against whom enforcement is sought.

The undersigned have executed this Written Consent as of the date first written above.



SIGNATURE
James Weaver

PRINT OR TYPE NAME



SIGNATURE
Diane Weaver

PRINT OR TYPE NAME

SPECIAL REVIEW REQUEST - Phase 6 on C/S 2796 Tract - 11/16/20

JDW Industrial Park 2 requests a Special Review for an Open Cut Mining project (KEMBEL) as shown on the attached Kembel Project Location Map. The Kembel Project Site Map (Phase 6), Kembel Post-Mine Topography Map (Corcoran Parcel 43.3 Acres), Kembel Cross Sections and Kembel Project map with 300 foot buffer are attached to this application. Also included are a completed application form, a check for Application Fee of \$1,337.00 and Sign Fee of \$50.00 for a total of \$1,387.00, a certified list of landowners within 300 feet of project and gummed labels with names and addresses of landowners. A Special Review is required to obtain an Open Cut Mining Permit. A previous Zoning Compliance application required a Special Review for Phase 6.

This project involves additional mining and reclamation of 43.3 acres that is adjacent to an approved 85.6 acre mining and reclamation project under SR 282, Floodplain Permit #02-04 and Open Cut Permit #1922. Primary use of material produced from this project will be in support of construction of new Yellowstone River highway bridge and right-of-way on adjacent property to the east of the project. This project will directly support Billings Growth Guidelines since majority of material produced from this project will be utilized in support of “connectivity of transportation systems” and “public transit”. In addition, the project reclamation to a “natural landscape” of fishing and recreation ponds will help “define the uniqueness Billings and help protect the environment”.

The need for the project is direct support of a major Billings highway and bridge construction project. Since the project is adjacent to the highway right-of-way and bridge construction site, access/travel/material haul will be contained within the project boundary and will not require use of public roads. As the area is now zoned for Heavy Industrial the reclaimed landscape of fishing and recreation ponds will enhance the area environment to a more natural landscape.

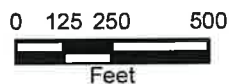
If approved this project Phase 6, will tie in directly with the adjacent mining/reclamation project to the north. The present site which is utilized for cattle grazing, will be mined to an approximate depth of 18 feet below the land surface with a pond depth of approximately 15 feet. The reclamation plan will finalize with 62 acres of new fishing and recreation ponds in addition to approximately 15 acres of existing ponds to the west (total pond acreage of Phase 6 is 27.9 acres).

If the Open Cut Mining Permit is approved construction would begin immediately and last approximately 5 years. Equipment on site would be (2) 30-yard scrapers, (3) excavators in 300-400 class, (4) 30-yard haul trucks, (2) 500 class loaders, (1) 14 M Cat grader and (2) D6 dozers. Hours of operation will be variable up to Monday through Saturday, 10-12 hours/day. However, majority of material haul will be directly to adjacent construction site.



Legend

- Permit Boundary - 128.9 Acres
- Permit_Corners
- Mine Phase
- Soil Test Pits
- Topsoil Stockpile
- Material Stockpile
- Collection Pond
- Access/Haul Roads
- Equipment Parking/Fueling/Staging
- PLSS Sections



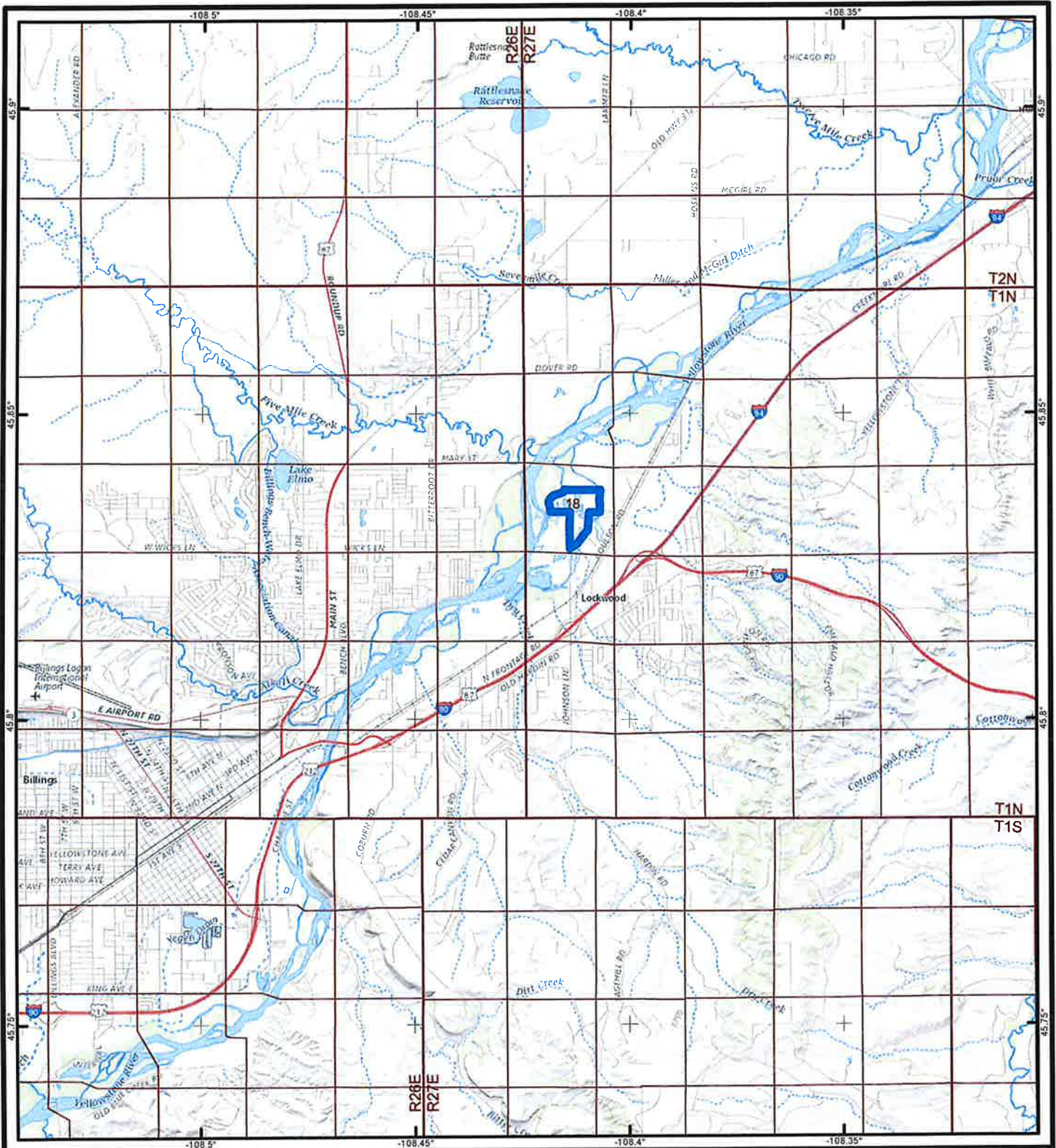
Base: 2019 NAIP
Grid: WGS84 Decimal Degrees

JDW Industrial Park 2




**Kembel Project
Site Map**

Yellowstone County, Montana
Sec. 18, T1N, R27E

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Legend

-  Permit Boundary
-  PLSS Township & Range
-  PLSS Sections



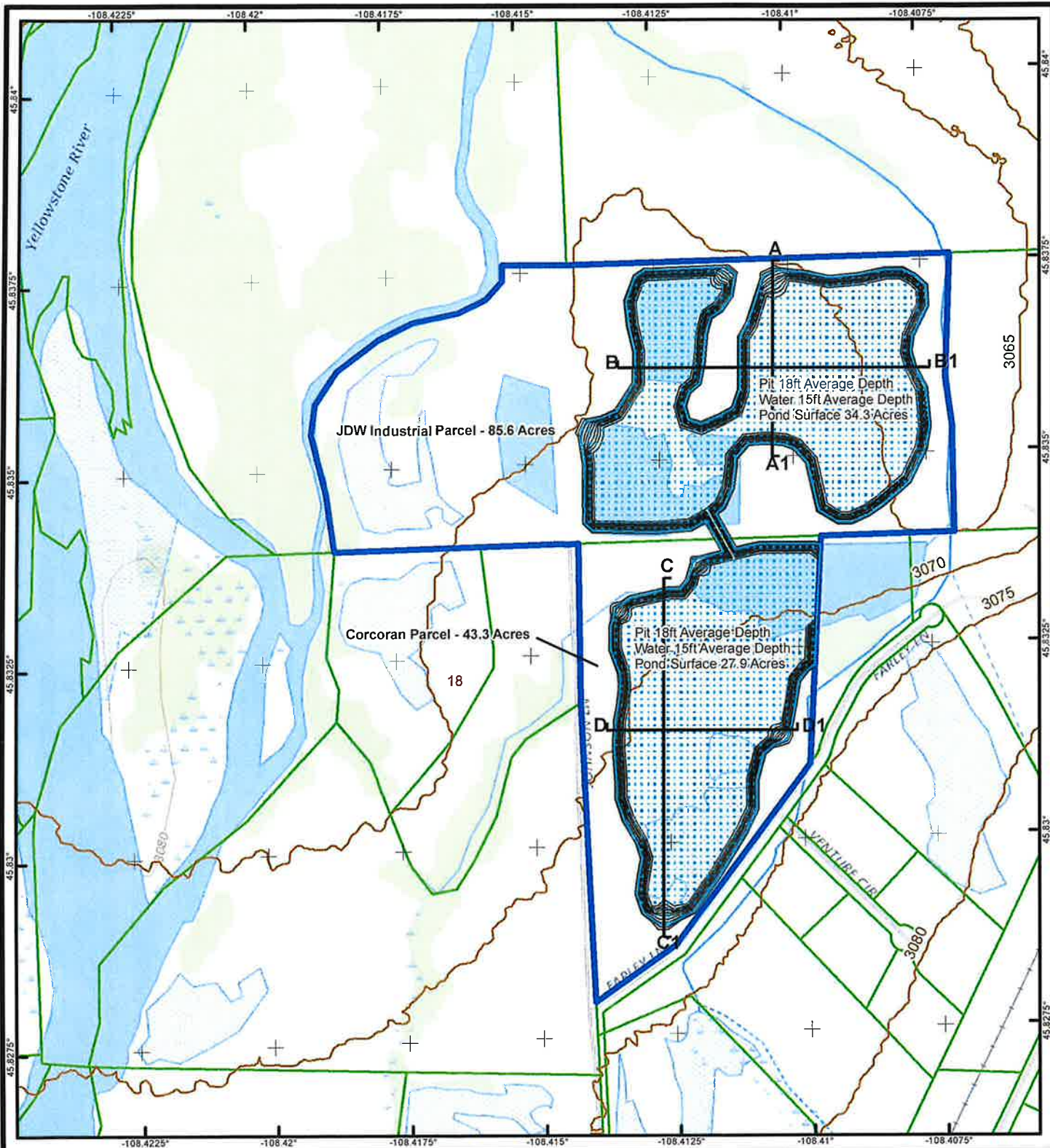
JDW Industrial Park 2

**Kemmel Project
Location Map**

Yellowstone County, Montana
Sec. 18 & 19, T1N, R27E

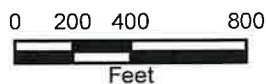
Base: ESRI USGS National Map
Grid: WGS84 Decimal Degrees

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Legend

- Permit Boundary - 128.9 Acres
- Montana Cadastral Parcel Boundary
- 5' Premine Contours
- Cross Section Location
- Post-mine Topography**
- Pond High Water Line
- 2' Contour Interval



JDW Industrial Park 2

**Kembel
Post-mine Topography Map**

Yellowstone County, Montana
Sec. 18, T1N, R27E

WT20_Kembel_PMT.mxd | 11/5/2020 | 1:8,000

Grid: WGS84 Decimal Degrees



Kembel Project

CMG REJ LLC

JDW INDUSTRIAL PARK 2, LLC

JDW INDUSTRIAL PARK 2, LLC

GLEN, BRYCE R & LESLI R.

CMG REJ LLC

MAURITZSON, MARK W

MAURITZSON, MARK W

MAURITZSON, MARK W

JDW INDUSTRIAL PARK 2 LLC

LUCHT, GREGORY J

LOCKWOOD INDUSTRIAL DEVELOPMENT LLO

BAILEY ENTERPRISES OF MONTANA LLC

EXXON CORPORATION

Johnson Ln.

Farley Ln.

Venture Cir.

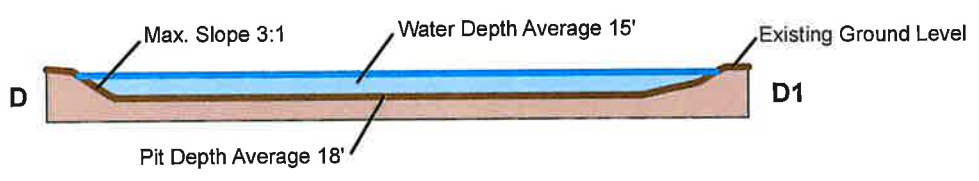
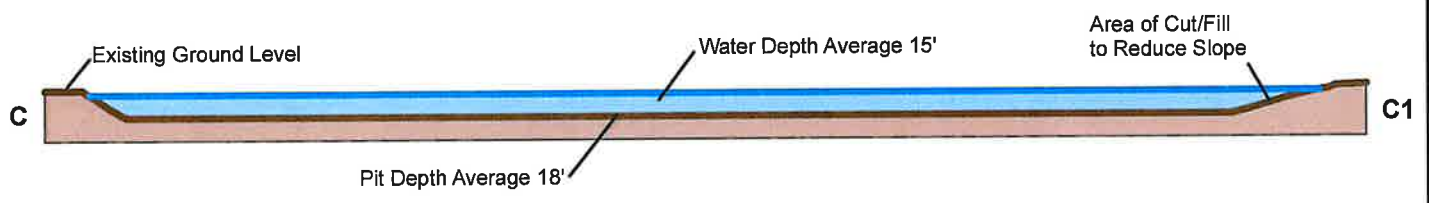
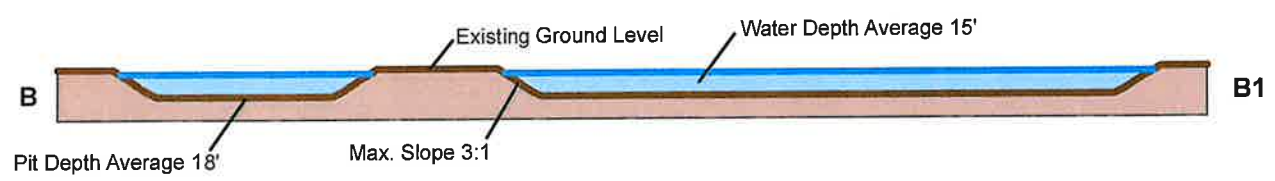
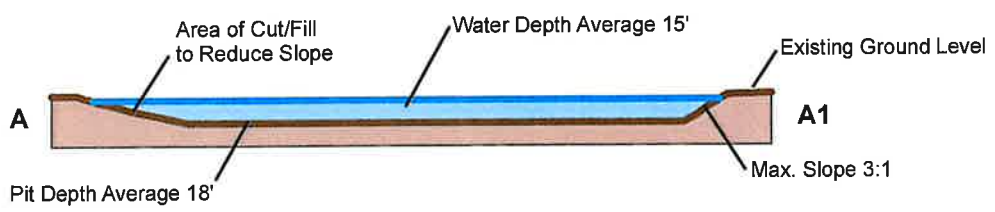
TACO CO LLC

JDW INDUSTRIAL PARK 2, LLC

- Kembel Project
- 300 ft Buffer
- Parcel Lines



This document is intended for informational purposes only and is not guaranteed to be accurate nor current.



Horizontal Scale: 1"=250'
 Vertical Scale: 1"=125'

JDW Industrial Park 2

Kemmel Cross Sections

Yellowstone County, Montana
 Sec. 18, T1N, R27E

Zoning Map and Site Photos















